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SUBJECT: NUEVO LEON MOVES AHEAD WITH ORAL TRIAL PROGRAM

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11. (SBU) Summary: During a September 4 briefing, Nuevo Leon state and university officials told the Ambassador that around 50 percent of all trials in the state are now conducted at an oral hearing, the result of 2004 legislation mandating the change. Officials said they had intentionally introduced the new system slowly to give the court system time to adjust to the changes. However, state officials are moving cautiously ahead with plans to apply oral trial methodology to serious criminal cases, including organized crime, out of fear that the criminals will exploit the system before the state has a fully developed plan for such cases. The state and federal governments have funded new training programs and law students at the University of Nuevo Leon now have the opportunity to view ongoing trials by CCTV as part of their training program. The state Attorney General acknowledged the need to respect human rights during law enforcement activities, but opined that organized criminals were the most serious threat to human rights. End summary.

12. (SBU) At a September 4 meeting with the Ambassador, Nuevo Leon state Attorney General Luis Carlos Trevino described an ongoing transition in the state from written to oral trials. As evidence, he said his court system was now conducting oral trials for 110 criminal offenses, up from only five when the state legislated oral trials in 2004. The meeting, held at the University of Nuevo Leon (UANL) campus, also included Office of National Drug Control Policy (ONDCP) Director Gil Kerlikowske, USAID Director, Consul General, State Supreme Court Chief Justice Jorge Luis Mancillas, and UANL Law School Director Jose Luis Prado.

Slow Implementation, But Steady Progress

13. (SBU) Trevino explained that his office slowly introduced the oral trial system to allow a written trial-focused legal system time to adapt. Judge Mancillas added that oral trials began with minor traffic incidents involving financial restitution, not imprisonment. Currently, he said, over fifty percent of all criminal cases are tried in an oral court, including those of juveniles. The federal system initially

resisted the state's move to oral trials and often denied injunctions that resulted from them, he recalled. This, however, is no longer the case. (Note: After several years of debate, in June 2008 Mexico amended its constitution to mandate oral trials nationwide. End note.)

Shorter Trials, More Transparency

¶4. (SBU) Mancillas noted that because the proceedings are recorded, court records are more resistant to manipulation. Speed is another advantage, he said. Public resistance to civil oral trials diminished after cases that would have normally taken several months under the written trial system began to be resolved in only a few days when taken to an oral trial. Under the written trial system, litigants commonly leased houses near the court due to the length of the proceedings, he added. As a result of shorter trial periods, criminal, civil and juvenile cases are all now eligible for oral trials, he observed. Ironically, the strongest remaining source of resistance to oral trials, Mancillas declared, comes from established attorneys who do not want to invest time in learning a new, more modern way of doing business.

Application to Serious Crimes Carefully Examined

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¶5. (SBU) Mancillas emphasized that authorities are carefully scrutinizing the methodology for using oral trials in cases involving crimes with a high societal impact such as kidnapping and murder. He feared that organized crime figures would find loopholes that could allow them to be released without a verdict. (Note: Human rights groups have criticized a provision in the federal transition to oral trials known as "arraigo" which allows organized crime suspects to be detained for as long as 80 days without formal charges. End note.)

Judges at Risk?

¶6. (SBU) The Ambassador pointed out that under the oral trial system, judges are now visible and could be put at risk. UANL Law School Director Prado agreed and emphasized the importance of protecting judges under the new system, using Colombia and Italy as examples where judges have been murdered. He said the use of "faceless" judges is still being debated in Mexico, adding that many believe defendants have the right to know who is judging the case.

Training Key to Success

¶7. (SBU) Positive change is always difficult, the Ambassador noted, especially when going from a system where influence can

be bought to a more open regime. Prado agreed and opined that resistance would fade if attorneys understood the new system completely. He said that the new UANL law school syllabus includes a course on ethics and corruption. Mancillas underlined the importance of investment in the training of attorneys and police. He declared that attorneys have to be specialized in oral trials. To that end, he pointed to graduate studies programs in oral trials and explained that the state will pay 50 percent of the cost of educational fees for students making oral trials their focus.

¶9. (SBU) Prado observed that three oral trials, viewed via CCTV by over 800 law students, have taken place thus far on the UANL campus. The federally funded trial room and remote viewing program are part of the GoM effort to transition students from written to oral trial procedures. (Note: A similar program is likely to open in a few months at cross-town rival Monterrey Tech Law School; the Monterrey Tech effort is being supported by USAID. (Note: The USG has been involved in the implementation of the oral trial process from the beginning. Consulate staff, U.S. law enforcement personnel, and USAID justice reform projects have played a significant role in training Nuevo Leon justice officials, police, and laboratory technicians. End note.)

Comment

¶10. (SBU) The 2008 constitutional change mandating oral trials has given additional legitimacy to Nuevo Leon's drive to convert its legal system from written to oral trial proceedings. Although the change has encountered resistance from some entrenched groups in the state, it has continually gained steam and has official support that should ensure it is successful here. Many have come to see the benefit of substituting the presumption of innocence for that of guilt (as in the written trial system) and the value of a more transparent adjudication system. Still, given Mexico's ongoing security challenges and corruption permissive culture, the oral trial system faces the same challenges to its integrity as the one that it replaces.

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¶11. (SBU) Successful implementation of the oral trial system nationwide will also depend on GoM action to firmly delineate jurisdiction over many organized crime cases. For example, in Nuevo Leon, the federal prosecutor's office (PGR) often takes control of large scale cases, especially those arrests which involve military action. The state prosecutor's office (PGJ) tries to hold onto some cases that involve state police arrests, but overall appears to avoid high-profile organized crime cases. End comment.

Human Rights

¶12. (SBU) Finally, Ambassador queried our Nuevo Leon interlocutors as to whether they worried that the military's involvement in the struggle against the cartels would eventually lead to human rights abuses that would tarnish that institution's image. Attorney General Trevino replied that as a lawyer he was well aware of the need to respect the rule of law,

but that the reality was that organized crime represented the biggest threat to human rights. In making recent arrests of traffickers and suspect policemen, detentions which occurred with the support of local army units, the state had done its best to strike a balance between public security and detainee rights.

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